ATTACHMENT B

STAFF'S ARGUMENT

STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

Respondent Ann J. Stanfield (Respondent Stanfield) submitted a request for a retirement allowance estimate in July 2015, with a projected retirement date of December 5, 2015. CalPERS calculated Respondent Stanfield's benefit estimate and sent it to her on July 29, 2015. Respondent Stanfield appealed the estimate and asked that CalPERS use her final State compensation for all of her service credit when calculating her retirement benefit. A hearing was held on September 19, 2016.

Following is a chronology of Respondent Stanfield's public employment history:

- January 9, 1991 – January 3, 2004 Tuolumne County
- January 5, 2004 – August 13, 2005 Area 12 Agency on Aging
- August 15, 2005 – January 1, 2009 Tuolumne County
- September 5, 2010 Service Retirement
- October 1, 2013 – Present State of California, Department of State Hospitals

The Public Employees' Pension Reform Act (PEPRA) became effective on January 1, 2013. One of PEPRA's provisions, Government Code section 7522.04(f)(3), states that a "new member" includes "[a]n individual who was an active member in a retirement system and who, after a break in service of more than six months, returned to active membership in that system with a new employer." Regulations implementing PEPRA further address how retirement benefits are to be calculated when there is both pre-PEPRA service credit and post-PEPRA service credit. Code of Regulations section 579.24(b) states, "[w]here a member has accrued service credit as a classic member and separately accrues service credit as a new member, each with a period of service resulting in a different final compensation amount, CalPERS will apply one final compensation amount for the service credit accrued as a classic member, and a second final compensation amount for the service credit accrued as a new member. CalPERS will then use both figures to calculate the total retirement benefit owed."

Because Respondent Stanfield separated from Tuolumne County on January 1, 2009, and reinstated as a CalPERS member with the State of California more than 6 months later and after PEPRA went into effect, Respondent Stanfield's service credit earned with the State is as a "new member". Therefore, the retirement allowance estimate applied Respondent Stanfield's higher State final compensation only to the service credit accrued from her State employment.

Prior to the hearing, CalPERS explained the hearing process to Respondent Stanfield and the need to support her case with witnesses and documents. CalPERS provided Respondent Stanfield with a copy of the administrative hearing process pamphlet. CalPERS answered Respondent Stanfield's questions and clarified how to obtain further information on the process.

At the hearing, the Administrative Law Judge (ALJ) inquired if Respondent Stanfield had retired on December 5, 2015, as the retirement allowance estimate had projected.

Respondent Stanfield did not retire on that day and continues to work. Upon discovering that the retirement estimate had become moot, the ALJ asked the parties if they wanted a decision to be issued on the merits of the appeal. Both parties indicated affirmatively.

Despite the parties' wishes, the ALJ cited Government Code section 11504[1] and dismissed Respondent Stanfield's appeal because the retirement estimate from which Respondent Stanfield appealed was moot and concluded there is no "right, authority, license, or privilege" that can be granted or issued.

The ALJ concluded that Respondent Stanfield's appeal should be dismissed. The Proposed Decision is supported by the law and the facts. Staff argues that the Board adopt the Proposed Decision.

Because the Proposed Decision applies the law to the salient facts of this case, the risks of adopting the Proposed Decision are minimal. The member may file a Writ Petition in Superior Court seeking to overturn the Decision of the Board.

November 16, 2016

CHRISTOPHER PHILLIPS
Senior Staff Attorney

[1] Government Code section 11504 in relevant part provides: "A hearing to determine whether a right, authority, license, or privilege should be granted, issued, or renewed shall be initiated by filing a statement of issues."